

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6346

BILL NUMBER: SB 299

NOTE PREPARED: Dec 7, 2012

BILL AMENDED:

SUBJECT: Use of Credit Reports for Employment Purposes.

FIRST AUTHOR: Sen. Taylor

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill prohibits an employer from using a credit report in the process of hiring a prospective employee or in determining whether to continue the employment of an employee. It provides that an employee or prospective employee may bring a civil action against an employer for violating the prohibition. The bill provides for an award of actual damages, court costs, and attorney's fees to a prevailing individual, along with an injunction against the employer's further use of credit reports in violation of the prohibition.

Effective Date: July 1, 2013.

Explanation of State Expenditures: The bill may increase costs to the state as an employer if the state were to be required to defend against a civil action and pay damages, court costs, and attorney fees.

Currently, the state does obtain credit report verifications on a limited number of hires, and only in situations where the state determines that it is a business necessity to do so. According to federal Fair Credit Reporting Act (FCRA) regulations, the state requires a separate written notice and authorization from the applicant or employee before a report from a consumer reporting agency may be procured. If the employer proposes to deny employment or otherwise adversely affect an employee based on any information in a consumer report, the employer must make adverse action disclosures to the employee or applicant.

In FY 2012, 104 credit history reports were obtained by the State Personnel Department and the total cost to run these reports were \$572.

Background: Credit reports are defined as a written, oral, or other communication of information by a consumer reporting agency concerning the creditworthiness, credit standing, or credit capacity of a consumer. A consumer reporting agency has the meaning set forth by the FCRA.

Explanation of State Revenues: If additional civil actions occur and court fees are collected, the state may receive additional revenue to the state General Fund. Court fees for civil cases are \$100, of which the General Fund receives either 55% or 70%, depending upon the court in which the case was filed.

Explanation of Local Expenditures: The bill may increase costs to local units as employers if they were to be required to defend against a civil action and pay damages, court costs, and attorney fees.

Explanation of Local Revenues: If additional civil actions occur and court fees are collected, local governments may receive additional revenue from their share of these court fees. Court fees for civil cases are \$100, of which local governments receive either 30% or 45%, depending upon the court in which the case was filed.

State Agencies Affected: All.

Local Agencies Affected: All, trial courts, city and town courts.

Information Sources: *Fiscal Year 2012 Edition of Indiana Handbook of Taxes, Revenues, and Appropriations*; Keith Beesley, Indiana State Personnel Department, kbeesley@spd.in.gov;

Fiscal Analyst: Stephanie Wells, 232-9866.